

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company
To Revise Its Electric Marginal Costs, Revenue
Allocation, and Rate Design.

(U 39 M)

Application 04-06-024
(Filed June 17, 2004)

**ADMINISTRATIVE LAW JUDGE'S RULING
ON BART'S MOTION FOR AN EXPEDITED INTERIM DECISION**

On May 4, 2005, the San Francisco Bay Area Rapid Transit District (BART) moved for issuance of an expedited interim decision affirming BART's position regarding its rate responsibility under existing law. BART asserts that it is exempt from energy recovery bond related charges, except to the extent that BART may in the future purchase supplemental power from Pacific Gas and Electric Company (PG&E). BART also moved for a shortened response period of seven days. The motion for a shortened response period was granted.

PG&E's Response

PG&E filed a timely response on May 11, 2005. PG&E agrees with BART that no evidentiary hearing is required on this issue. PG&E does not oppose BART's request for an expedited interim decision. PG&E does not object to this matter being taken under submission on the basis of testimony served by both parties, the additional declaration of Francis X. Schultz for BART, and concurrent briefs within 10 days of a ruling granting BART's motion.

PG&E indicates, however, that it intends to object to part of the Schultz Declaration, and reserves the right to file a motion to strike prior to filing

concurrent briefs. PG&E identifies the portion of the Declaration that it may seek to strike, but neither makes that motion now, nor indicates when it might make that motion. PG&E does not assert that it expects or needs a ruling on the motion, should one later be filed, before it may file briefs, only that it reserves the right to file such motion before the filing of briefs.

As a result, BART's motion should be granted with the expectation that PG&E will file its motion to strike, if any, within the days leading up to the filing of briefs, and that no ruling is necessary before the filing of briefs. If this understanding is incorrect, PG&E and/or BART may move for a different schedule. A prehearing conference (PHC) will be held on May 17, 2005. PG&E and BART should come to the PHC prepared to address the status of any motion to strike, and the schedule adopted herein.

SierraPine Ltd.'s Response

SierraPine Ltd. (SierraPine) also filed a timely response on May 11, 2005. SierraPine asserts there are a number of similarities between BART's claimed exemption and that claimed by SierraPine. Due to the similarities, SierraPine requests that its exemption issue also be decided on the expedited schedule proposed by BART for its issue (unless, as SierraPine prefers, the Commission resolves SierraPine's claimed exemption through the advice letter process).

SierraPine's request is essentially a motion. Parties should have an opportunity to respond. Responses should be due within seven days of the date of SierraPine's motion, and parties should be prepared to address this issue at the May 17, 2005 PHC.

IT IS RULED that:

1. The May 4, 2005 motion of the San Francisco Bay Area Rapid Transit District (BART) for an expedited interim decision is granted to the extent

provided herein. Parties may file opening and reply briefs on whether, and to what extent, BART may be exempt from energy recovery bond changes (Issue 2.6). Opening briefs shall be filed and served within 10 days of the date of this ruling, and reply briefs within five days after the date opening briefs are filed. This issue shall be submitted for Commission decision on the date reply briefs are due.

2. SierraPine Ltd.'s request shall be treated as a motion. Responses shall be filed and served within seven days of May 11, 2005.

Dated May 12, 2005, at San Francisco, California.

/s/ BURTON W. MATTSON

Burton W. Mattson
Administrative Law Judge

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of Administrative Law Judge's Ruling on BART's Motion for an Expedited Interim Decision in Application 04-06-024 by using the following service:

☒ E-Mail Service: sending the entire document as an attachment to all known parties of record who have provided electronic mail addresses.

☒ U.S. Mail Service: mailing by first-class mail with postage prepaid to all known parties of record who did not provide electronic mail addresses.

Dated May 12, 2005, at San Francisco, California.

/s/ KE HUANG

Ke Huang

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to ensure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.